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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,504	03/31/2004	Jewel Tracy	20031124-001	6464

7590 05/24/2006
Roger L. Belfay
829 Tuscarora Avenue
Saint Paul, MN 55102

EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/814,504	TRACY, JEWEL	
	Examiner	Art Unit	
	Edward F. Landrum	3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 4/17/2006 have been fully considered but they are not persuasive.

In regards to applicant's remarks on the dispensing device of Oats (U.S Patent No. 4,926,513), applicant has not disclosed any structure to the dispensing device, only the location. The dispensing device of Oats are the rollers (110 and 110') located on a first side and above the frame (100), as well as being outside of the sanitary area. The rollers dispense.

In regards to bullet 1) on claim 1, Oats '513 teaches the frame (100) having four sides (the front, back, left and right sides; see Figure 2). The frame also guides the sanitary covering material by providing a guiding support for the sheet stack tensioning mechanism (122) and the sheet stack itself (150). Without the frame the sheet stack (150) would not be aligned with roller (110) and the tensioning mechanism would not work. Therefore the frame helps guides the sanitary material through the frame.

In regards to bullet 2) on claim 1, the frame (100 and 122) solely comprises the support as shown in Figures 1 and 1A. The frame discussed does not include the wheels, headboard or any other part of the device that make a bed frame. Therefore, the dispensing device (110 and 110') is above the frame and outside of the sanitary area. The sanitary are includes the upper portion of mattress 160 above sheet 150' as shown in Figures 1 and 1A.

In regards to bullet 1) on claim 8, it would be obvious to have modified Oates '513 with Kapiloff '003 because s force or weight sensor would detect the presence of a

person on the sanitary covering material and could easily activate a motor to dispense new sanitary covering material once the force left thereby relieving the responsibility of someone needing to make sure that the covering material was replaced after every use. Furthermore, it is old and well known in the dispensing art to take dispensing devices which used to be dependent on a conscious user controlled action, and make them condition responsive for the purpose of providing a more sanitary and economical dispensing device that required less daily upkeep.

In regards to bullet 2) on claim 8, the claim only states that a sensor activates a roller to remove the used portion of sanitary material and does not disclose what type of sensor is used to detect when a user vacates a sanitary area, therefore the force sensor Kapiloff '003 could detect when a user vacates the area as discussed in the section 6.


2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL
5/18/2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER